



**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
MAY 10, 2023**

COMMISSIONERS IN ATTENDANCE: Chair Laura Suesser, John Kenworthy, Vice Chair Sarah Hall, Bill Johnson, Christin Van Dine, John Frontero, Henry Sigg

EX OFFICIO: Gretchen Milliken, Planning Director; Rebecca Ward, Assistant Planning Director; Alexandra Ananth, Senior City Planner; Spencer Cawley, City Planner; Caitlyn Tubbs, Senior Historic Preservation Planner; Jack Niedermeyer, City Planner; Virgil Lund, City Planner; Mike Owens, Battalion Chief Park City Fire District; John Robertson, City Engineer; Jason Glidden, Housing Program Manager; Mark Harrington, City Attorney

1. ROLL CALL

Chair Laura Suesser called the meeting to order at approximately 5:30 p.m. She noted that all of the Commissioners were present, with the exception of Commission Christin Van Dine who was scheduled to join the meeting in progress.

Chair Suesser mentioned that this would be Planning Director Gretchen Milliken's final meeting. She thanked Director Milliken for her service and guidance over the past few years.

Chair Suesser reported that the site visit for 327 McHenry Avenue was canceled.

2. MINUTES APPROVAL

A. Consideration of Approve the Planning Commission Meeting Minutes from April 12, 2023.

Commissioner Sarah Hall noted that on page 11, the word "not" was missing from a sentence that should read: "The City is *not* the sole applicant." This discussion involved how they amended the Affordable Master Planned Developments ("AMPD") so they could incentivize private/public partnerships, and this was an example where the City was not the sole applicant after the AMPD was amended.

MOTION: Commissioner Johnson moved to APPROVE the Planning Commission Meeting Minutes from April 12, 2023, as amended. Commissioner Frontero seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

3. PUBLIC COMMUNICATIONS

There were no public communications.

4. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

A. Land Management Code Amendment Update.

Director Milliken referenced the Staff Communications in the Packet and the upcoming schedule. She explained that the purpose of the Staff Communication was to update the Planning Commission on the Land Management Code (“LMC”) Amendments. She noted that during the April 26, 2023 meeting, the Planning Commission requested that one of the amendments discussed previously be prioritized. Director Milliken presented a list of the LMC amendments that had been enacted to date. She mentioned the Water Wise Landscaping updates that went into effect on March 9, 2023. Additionally, she highlighted the repeal of the Fractional Use Regulations following State legislation.

The City Council also enacted a Nightly Rental prohibition in the Chatham Crossing and West Ridge neighborhoods on April 27, 2023. Director Milliken noted that City Council also enacted the Bicycle Parking Regulations and Sensitive Land Overlay on April 27, 2023. She advised that there was one LMC Regulation that went before City Council on April 27, 2023, but was continued based on the Council’s request for clarification on the distinction between the Support Commercial for hotels under one ownership, but not for condominiums. The proposed Amendment would be brought back before the City Council on June 12, 2023.

Director Milliken explained that the remaining agenda for 2023 would be as follows:

- On May 24th, the Steep Slopes and Excavation Standards would come before the Planning Commission. Commissioner Johnson and Chair Suesser serve as the Liaisons for these amendments. Director Milliken stated that they were comparing the Steep Slopes Conditional Use Permits (“CUPs”) and the Sensitive Land Overlay Steep Slope criteria, along with Excavation Standards. She stated that this review also included Building and Engineering.
- Lot Combinations in Historic Districts were added to the May 24, 2023 meeting. Director Milliken stated that the Lot Combinations in Historic Districts were originally not part of the LMC Amendment priority list. Staff was happy to advance the discussions; however, she stated that these would take some time to review. The effect of a Pending Ordinance on this issue would be that Lot Combination applications submitted prior to the Pending Ordinance would be processed under the current Land Management Code. Any applications submitted after May 10, 2023, would be processed only to the extent that they comply with the Pending Ordinance until new standards are adopted.
- The May 24 meeting on Lot Combinations in Historic Districts would be the first of three public hearings on that issue.

Chair Suesser sought clarification regarding the timing of applications. Director Milliken confirmed that any application submitted before May 10th would be processed under the existing LMC. Senior City Attorney, Mark Harrington explained that applications submitted after May 10th would not be stayed. He explained that if a proposed Lot Combination was below the threshold for Lot size, it could proceed; however, if it exceeded the threshold, the application would be stayed for a period not to exceed six months. If the Planning Commission does not take action on the proposed Ordinance within six months, the application could then proceed.

Chair Suesser noted that there was some debate during the last meeting about whether there was a threshold for Lot Combinations. City Attorney Harrington advised that Assistant Planning Director Rebecca Ward would be proposing some thresholds that would balance the degree of imposing an immediate non-conformity versus the direction given by the Commission. He added that the Planning Commission would be free to modify that as it deemed appropriate at the public hearings.

Director Milliken further advised that in June they will address Conventional Chain Business and Vibrancy Ordinances in a Work Session. She noted that Commissioner Hall served as the Liaison on the proposed amendments. She commented that this was scheduled for review on March 8, 2023, but was continued to April 26 due to the heavy agenda. Unfortunately, the Historic Park City Alliance ("HPCA") was unavailable on April 26 and was rescheduled for June.

Temporary Winter Enclosures would come back before the Commission as a Work Session in July 2023, at which time they also would address the Sustainability amendments. Commissioner Hall and Commissioner Frontero were serving as the liaisons for those amendments, in which they would evaluate issues such as Electric Vehicle ("EV") Charging Stations, wood-burning stoves, and other Sustainability incentives.

Director Milliken reported that they will revisit the AMPD in August to evaluate and update such things as occupancy numbers, financial analysis, commercial allowances, parking impacts, limited Nightly Rentals, Area Median Income ("AMI"), and other issues. They issued the Request for Proposals ("RFP") for an LMC consultant to help with some of the larger amendments, and they would present the contract to the City Council at an upcoming meeting for approval of the consultant. If City Council approved the consultant, then the AMPD would come before the Commission in August. If they have to re-issue the RFP, the AMPD amendments would likely come before the Commission at a later date.

In addition, at the end of August, they would discuss clarification of parking standards for Single-Family and Multi-Use. She noted that Historic District Design Guideline illustrations would be presented in September. When they adopted the Historic District Design Guidelines in 2019, they did not include the illustrations that were in the previous Guidelines. Director Milliken explained that they retained a consultant who was pulling together the illustrations, and added her belief that the illustrations would help in clarifying what is in the Code. These illustrations would initially be presented to the Historic Preservation Board for review, and they would make a recommendation for the Planning Commission.

Director Milliken advised that they reserved October, November, and December for the consultant to look at the AMPD, Transportation, and Transportation Demand Management. She commented that this schedule was based on the priorities expressed by the Commission in 2022.

B. Lot Combinations in Historic Districts.

Director Milliken stated that the Pending Ordinance would apply to the following Zoning Districts: Historic Residential-Low Density, Historic District Residential-1, Historic Residential-2, and Historic Residential-Medium.

5. CONTINUATIONS

A. 327 McHenry Avenue – Conditional Use Permit – The Applicant Proposes to Construct a Private Recreation Facility (Swimming Pool) in the Rear Yard. PL-22-05389.

City Planner, Spencer Cawley, advised that a continuation was requested to a date uncertain so that Staff could continue to work with the applicant to provide all the necessary information for the Commission's decision on the application.

Chair Suesser opened the public hearing. There were no public comments. Chair Suesser closed the public hearing.

MOTION: Commissioner Hall moved to CONTINUE the public hearing and 327 McHenry Avenue – Conditional Use Permit to a date uncertain. Commissioner Johnson seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

B. Huntsman Estates – Plat Amendment – The Applicant Proposes to Amend Plat Note 3 to Clarify the Building Envelope and Limits of Disturbance Shown on the Huntsman Estates Plat. PL-23-05540

Senior City Planner, Alexandra Ananth, reported that Staff and the applicant requested additional time to work out some Conditions of Approval. They requested a continuation of this item to June 14, 2023.

Chair Suesser opened the public hearing. There were no public comments. Chair Suesser closed the public hearing.

MOTION: Commissioner Johnson moved to CONTINUE the public hearing and Huntsman Estates – Plat Amendment to June 14, 2023. Commissioner Van Dine seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

6. REGULAR AGENDA

A. 1120 Empire Avenue – Plat Amendment – The Applicant Proposes to Remove The Lot Lines Common to Lots 26 and 27 Plus the North 0.5 Feet of Lot 28 to Create a Single Lot of Record. PL-23-05598.

City Planner, Virgil Lund explained that 1120 Empire Avenue is located within the Historic Residential-1 ("HR-1") Zoning District, and was currently occupied by a duplex that was constructed in 1974. At the time of construction, two-unit dwellings were an allowed use under the 1968 LMC.

Planner Lund stated that the applicant proposed to remove the Lot line common to Lots 26 and 27, which is located underneath the structure. Additionally, the applicant proposed to correct the nominal discrepancy of approximately 0.5 feet for the Lot line common to Lots 27 and 28. Planner Lund explained that this proposal complied with the HR-1 Zoning District requirements, and the existing use of a duplex was a Non-Conforming Use. He explained that a Non-Conforming Use

was a use that legally existed before its current zoning designation was maintained continuously since the time the regulations governing the land changed, and because of subsequent zoning changes, the current use did not conform to the zoning regulations that now govern the land. Under the current LMC, duplex dwellings require a Conditional Use Permit.

Planner Lund stated that the proposed Plat also complies with the HR-1 Zoning District Lot and Site requirements. The total Lot area of the proposed Plat would be 3,787.5 square feet, and the Minimum Lot Size is 3,750 square feet for a duplex. He reported that the width of the combined Lots would be 50 ½ feet, whereas the Minimum Lot Width is 25 feet. In addition, the Building Pad and Footprint were not regulated under the 1968 LMC. Setbacks will be required to be in compliance pursuant to Condition of Approval 4, which states that "The Duplex and the structure may be repaired, maintained, altered, or enlarged, provided that such repair, maintenance, alteration or enlargement shall neither create any new non-compliance nor shall increase the degree of the existing non-compliance of all or any part of such Structure."

Planner Lund explained that since the structure is currently non-compliant with Setbacks if the applicant wants to enlarge the structure, they would have to comply with the existing Setbacks of 10 feet in the front and rear and five-foot on the sides. He reported that Staff found good cause for this Plat Amendment in that the HR-1 zoning character would be retained and existing issues and non-conformities were addressed. The existing Building Footprint is 1,860 square feet. He explained that if the structure was to be demolished and a new structure rebuilt, the structure would have a Maximum Building Footprint of 1,531 square feet per the formula in the Code. Any future development would need to comply with the requirements of the LMC in effect at the time of the application submittal, including off-street parking. Currently, this property has two spaces, and four are required. Staff recommended the Planning Commission review the Plat Amendment, open a public hearing, and consider forwarding a positive recommendation for City Council's consideration on June 15, 2023.

Chair Suesser sought clarification of the Maximum Building Footprint should the existing structure be demolished. Planner Lund explained that the Maximum Building Footprint of 1,531 square feet would apply to the combined Lot, thereby reducing the Building Footprint. With regard to Condition of Approval 4, Chair Suesser questioned how this Condition addressed the Setback issues. She noted that the required Setbacks were listed in the Findings of Fact but the Draft Ordinance did not specify the violations of the Setback that currently exist.

Planner Lund explained that when the structure was built in 1974, it was built without regard for Rear or Side Setbacks. Because the structure was built with an approved Building Permit, Staff could not force the owner to comply with the current Setbacks; however, if the owner were to demolish the existing structure, the new structure would have to comply with the Setbacks.

Chair Suesser inquired about the extent of the existing Setback violation, and Planner Lund referenced page five of the Existing Conditions Survey in the Staff Report. On the south side, the structure was built on the property line. The rear of the structure was approximately eight feet from the property line, whereas the required Setback was 10 feet. City Attorney Harrington asked if it would be possible to reference the Existing Conditions Report as Exhibit B to Finding of Fact 12 so that there could be future consistency. Chair Suesser asked if the Setback violations were the only existing non-conformity along with the use of the duplex. Planner Lund confirmed and stated that the owner would have to come before the Planning Commission to maintain the use of a duplex if they constructed a new structure. Commissioner Johnson added that they would also be required to conform the off-street parking to the current Code.

Director Milliken noted that it is currently a Non-Conforming Structure, and if there was any expansion of the non-conformity by way of an addition or other change, that would also require the owner to bring the structure into current Code compliance. Chair Suesser commented that this was why the wording of Condition of Approval 4 was confusing. Planner Lund indicated that the wording of Condition of Approval 4 was taken from LMC Section 15-9. He stated he could clarify the wording. Commissioner Van Dine also questioned Condition of Approval 4 and noted that it contained the words "altered or enlarged," and felt that if a structure was enlarged it would be creating more non-compliance. City Attorney Harrington explained that this wording came from State law, and noted there could be a scenario in which some portion could be internally enlarged that might not increase the degree of non-compliance. He stated that this case was different because the overall non-compliance was that it was a duplex. If it went back to Single-Family use, the owner could build something as long as it complied with the current Setbacks. He stated the owner would have to get rid of the duplex use first in order to be eligible for that.

Commissioner Johnson asked about the location of the snow storage. Planner Lund stated that it was not called out in the Existing Conditions, and he was unsure of where the snow storage was on this Lot. Commissioner Johnson expressed that snow storage was typically included in Plat Amendments. It was confirmed that snow storage was not referenced in the Plat Amendment. Commissioner Johnson noted the reference to three recorded documents that were not depicted on the drawing. He felt it was always helpful to have a visual of it.

Chair Suesser requested that snow storage be included in the Plat Amendment. City Attorney Harrington advised that with the motion, the Commission could request that the City Engineer double-check the snow storage. He added that it might be that the areas of the easements are actually on the adjacent property and there might be agreements for snow shedding on the adjacent properties that would not be reflected because those properties were not within the boundary of this Plat Amendment. He stated that at the signature phase of the Plat, the City Engineer would typically look at that and either approve or deny following his or her review. The Planning Commission could request that it be specifically referenced so that the City Council had clarity before taking action.

Commissioner Frontero asked about the reasoning behind the Plat Amendment request, as he failed to see the motivation for removing these plat lines given that there did not appear to be an immediacy to the request such as demolition of the structure. Planner Lund stated that based on correspondence received, the applicant intended to do an interior remodel and renovate the property. Planner Lund added that a Plat Amendment might be required depending on the renovation and type of remodel. Anything exterior would have to go through a different process and comply with the current Setbacks and address the non-conformity. He felt that down the road, they would have a better idea of the applicant's intentions.

Commissioner Sigg assumed that the ownership was one entity. Planner Lund confirmed and further stated that one of the units was used as a Nightly Rental. Commissioner Sigg assumed that this would remain a duplex after the renovation, and asked whether a condominium would be allowed if that was the direction the owner wanted to go in the future. City Attorney Harrington responded that would require another Plat Amendment.

In response to a comment from Chair Suesser, Planner Lund advised that Condition of Approval 4 used language from the Land Management Code. City Attorney Harrington stated that if that

language was troubling to the Commission, they could change it to cite the Code Section for Non-Conforming Use renovation, which could be incorporated by motion.

Commissioner Sigg asked if the Code defined with clarity the Non-Conforming Duplex uses on smaller Lots that had been grandfathered in. He referenced Prospector Village where certain Lots were permitted as duplex units, and how difficult it had been. City Attorney Harrington stated that the definition of Duplex was clear, and the degree of non-conformity was clear. Circumstances of that non-conformity vary widely, and he noted that Prospector had its own nuance. If the Commission wanted more background on these issues they could bring it for a future Work Session.

Chair Suesser asked if Condition of Approval 4 would allow the applicant to alter the exterior of the building by removing one section and adding another. Planner Lund explained that the applicant could not enlarge into the Side Setback or Rear Setback. He noted the structure already met the Front Setback and the other Side Setback. Planner Lund felt that the owner could not enlarge anything on the exterior. Chair Suesser asked if the owner could expand upwards. Planner Lund was not sure of the existing Building Height, and the applicant had not submitted any Building Permits to allow them to determine the existing Building Height, but it could not exceed 27 feet.

Chair Suesser commented that this was an example of the lack of clarity in Condition of Approval 4 because the applicant would be allowed to alter and enlarge as long as they did not create any new non-compliance. It was confirmed that they owner could go higher as long as they remained within 27 feet. Planner Lund stated he could make the language in Condition of Approval 4 clearer. Chair Suesser asked the Commission their preference between including the language, or just referencing the Code in Condition of Approval 4.

Commissioner Van Dine felt okay referencing the Code requirement because they would not be able to go outside the basic zoning requirements. Chair Suesser agreed and stated she would be more comfortable referencing the Code rather than repeating the language because it reads as though they were agreeing to give the applicant more than what the Code requires.

City Attorney Harrington stated that the Code reference would be Sections 15-9-5 and 15-9-6. These address both the non-complying use and the non-complying structure. There was a suggestion that the reference be to the repair of the structure rather than the repair of the duplex.

Chair Suesser opened the public hearing. There were no public comments. Chair Suesser closed the public hearing.

MOTION: Commissioner Hall moved to forward a POSITIVE recommendation for City Council's consideration on June 15, 2023, for 1120 Empire Avenue – Plat Amended – as outlined in the Draft Ordinance, as amended with regards to Condition of Approval 4, and Finding of Fact 12, as follows:

Findings of Fact

Background:

1. The property is located at 1120 Empire Avenue.

2. The property is listed with Summit County as Parcel number SA-181-A and consists of all of Lots 26 and 27, and the north 0.5 feet of Lot 28, Block 17, Snyder's Addition to Park City.
3. The property is in the Historic Residential – 1 (HR-1) Zoning District.
4. No easement is vacated or amended as a result of the plat amendment.
5. The LMC regulates Lot and Site Requirements per LMC § 15-2.2-3.
6. Duplex Dwellings are a Conditional Use in the HR-1 Zoning District and require a minimum Lot size of 3,750 square feet. The combined Lot size is 3,787.5 square feet.
7. The minimum Lot width in the HR-1 Zoning District is 25 feet. The proposed width of the Lot is 50.5 feet.
8. The required front Setback is ten feet (10').
9. The required Side Setback is five feet (5').
10. Building Height in the HR-1 Zoning District is 27 feet.
11. The existing structure is Non-Conforming with the Building Pad and Building Footprint requirements for the HR-1 Zoning District.
12. The existing structure is not compliant with existing LMC requirements regarding Setbacks as set forth in the Existing Conditions Survey, attached as Exhibit B.
13. The two-unit structure was built with the Parking Spaces required by the LMC in effect at the time of construction.
14. The existing driveway is not compliant with current Off-Street Parking Requirements. The LMC requires four Parking Spaces for a Duplex Dwelling, and the existing structure only has two Non-Conforming parking spaces. Any new construction must comply with the current parking requirements in effect in the LMC at the time of application submittal.

Conclusions of Law

1. There is Good Cause for removing two Lot lines common to Lots 26 and 27 and the additional nominal discrepancy between Lots 27 and 28 to create one Lot because present land Uses and the Character of the HR-1 Zoning District are retained and it resolves existing issues and non-conformities.
2. The Plat Amendment is consistent with the Park City Land Management Code, including LMC Chapter 15-2.2, Historic Residential – 1 (HR-1) Zoning District, and LMC § 15-7.1-6, Final Subdivision Plat.

3. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
4. Approval of the Plat Amendment, subject to the conditions stated below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the Plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The Applicant shall record the plat at the County within one (1) year from the date of City Council approval. If recordation has not occurred within one (1) year's time, this Plat approval will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. The plat shall note that fire sprinklers are required for all new construction.
4. Pursuant to Land Management Code Sections 15-9-5 and 15-9-6, the Structure may be repaired, maintained, altered, or enlarged, provided that such repair, maintenance, alteration, or enlargement shall neither create any new noncompliance nor shall increase the degree of the existing non-compliance of all or any part of such Structure.
5. City Engineer review and approve all Lot grading, utility installation, public improvement, and drainage plans for compliance with City standards prior to issuance of any building permits.

Commissioner Sigg seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

B. 1460 Eagle Way – Plat Amendment – The Applicant Proposes to Increase Lot B for an Addition and Allow a Buffer Between Lot B and Estate Lot 1. PL-23-05559.

Planner Cawley reported that both the applicant, Karen Marriott, and the applicant's representative, Marshall King of Alliance Engineering were present in chambers. Curtis Sorenson and James McBride were also present. Planner Cawley stated that 1460 Eagle Way was part of the Aerie Subdivision, Phase 1, which was established as part of a Settlement Agreement recorded in 1981 with Summit County that created 80 Single-Family Lots. He presented a graphic showing Lot 62, which was the original 1460 Eagle Way. In 1999, the applicant and the owner of Lot 64 petitioned the City to amend the Plat to eliminate Lot 63. As a result, a portion of Lot 63 went to Lot 62, and the remaining portion went to Lot 64. This was approved by the City Council and created Lot B of the Eagle Way Plat Amendment, which was referenced as 1460 Eagle Way.

Planner Cawley reported that in 2007, the applicant again petitioned the City to amend the Eagle Way Plat to incorporate some property acquired following the 1999 Plat Amendment. This additional property was a metes-and-bounds parcel in the Estate Zone totaling 3.29 acres and

located south of Lot B. He noted that 1460 Eagle Way was located in the Single-Family zone. The Plat Amendment took some of the area from the metes-and-bounds parcel and included it in Lot B for the purpose of a garage addition. This Plat Amendment resulted in Lot B totaling 32,714 square feet. The Plat Amendment also created Estate Lot 1, which was three acres.

Planner Cawley presented a graphic showing what currently exists as compared with the proposal sought by this application. He explained that Lot B was identified in blue, and Estate Lot 1 was identified in red. Since the 2007 Plat Amendment, the applicant obtained a seven-acre parcel to the south, which was depicted in orange on the graphic. The applicant proposed to take some of the area from Estate Lot 1 and apply it to Lot B, which would make Lot B just over one acre. He noted that Lot B would therefore increase from .76 acres to 1.04 acres.

Planner Cawley added that Estate Lot 1 would be combined with the metes-and-bounds parcel to the south to create a 9.35-acre Estate Lot. He indicated that Lot B would exist in both the Single-Family zone and the Estate zone. Planner Cawley stated that the proposed Plat Amendment complied with both the Single-Family and Estate Zoning District requirements, as conditioned. He noted that the Estate Zone had more restrictive Setbacks at 30 feet, whereas the Single-Family zone Setbacks were 20 feet for the front, 12 feet for the side, and 15 feet for the rear. He advised that the current structure complied with those Setbacks.

Planner Cawley commented that the Building Height is 28 feet in the Single-Family Zone, and Staff added a Condition of Approval stating that if any addition to the existing structure was within the Single-Family Zone, then it would need to meet the zone height of 28 feet from Existing Grade. In the Estate Zone, the Building Height can go to 30 feet from Existing Grade. He referenced Condition of Approval 5 and 6 providing that any addition within the Estate Zone must meet the 30-foot Setback requirement and the 30-foot Building Height from Existing Grade. He explained that the Estate Zone also has Lot Size and Density requirements. The Minimum Lot Size for all uses was three acres, except that a Duplex required six acres. The Maximum Density was one unit per three acres.

Staff included Condition of Approval 7 stating that any development on the Estate Lot would require additional Sensitive Lands analysis. It was noted that there was an error, and he would ask the Commission to amend the Conditions to include that as Condition of Approval 15. With regard to the Sensitive Land Overlay criteria, Planner Cawley stated that the applicant's representative provided a Sensitive Land Overlay Report. Three of the criteria required Conditions of Approval. He noted the following criteria that did not apply to this site: Ridgeline Areas, Designated Entry Corridors and Vantage Points, Wetlands, and Stream Corridors, Canals, and Irrigation Ditches.

With regard to the Slope and Topographic requirement, Planner Cawley explained that the Site has a mild slope from east to west, and the steepest natural area was located toward the rear of the metes-and-bounds parcel to the south. He referenced an attachment to the Exhibit depicting the full slope of Lot B, Estate Lot 1, and the parcel. Planner Cawley mentioned that various Steep Slopes on the Site were created by retaining walls, so they were not natural to the topography of the Site. He referenced a location on an image showing where the addition was proposed. He indicated that the LMC specifically provided that any area of Very Steep Slopes less than 25 feet vertically and 50 feet horizontally were not subject to the provision. He stated that the proposed addition would not fall under those regulations.

Planner Cawley noted that there were Conditions of Approval specific to the Steep Slopes, and explained that the applicant would be required to avoid, or to the greatest extent possible minimize

proposed cuts and fills. Additionally, all graded slopes should be re-contoured to the natural varied contour of the surrounding terrain. Another Condition of Approval provided that if final plans show the introduction of new retaining walls, then the use, design, and construction of all retaining walls would be subject to an administrative permit based upon assessment of visual impact, compatibility with surrounding terrain, vegetation, and safety.

Chair Suesser asked about the dimension of the proposed addition to confirm that they would not be at 25 feet vertically and 50 feet horizontally. Commissioner Johnson asked if the applicant would be required to come back for a Steep Slope Conditional Use Permit, to which Planner Cawley answered in the negative, explaining that Steep Slope CUPs were for the Historic District. Planner Cawley deferred Chair Suesser's question until the time when the applicant would present and/or respond to questions.

Chair Suesser hoped that Planner Cawley would address the heights of any retaining walls being proposed with this project. Planner Cawley advised that any retaining walls would have to go through an Administrative Permit process, regardless of height. He noted there were no proposed retaining walls at this time.

Planner Cawley next addressed the Wildlife Habitat areas as part of the Sensitive Land Overlay evaluation. He referenced the list of wildlife in or near the property as including Black Bear, Dusky Grouse, Moose, Mule Deer, Rocky Mountain Elk, and Snowshoe Hare. A Condition of Approval would require the applicant to ensure that construction was organized and timed to minimize disturbance of Sensitive or Specially Valued Species occupying or using on-site or adjacent natural areas.

With regard to the Vegetative Cover criteria, Planner Cawley stated that according to the report provided by the applicant's representative, designed existing landscaping and non-native deciduous trees might be impacted by this development. The Site contains primarily Gamble oak, Scrub oak, Sage, and grassland located in the area south of the proposed addition, known as Future Estate Lot 1. Condition of Approval 9 would require the applicant to provide a Landscape Plan pursuant to the LMC, which would require preservation of Significant Vegetation. If Significant Vegetation was determined to be unhealthy and/or unsafe under a site-specific review conducted by the Forestry Board and Planning Director in conjunction with Building Permit review, it may be replaced with equivalent landscape in type and size.

Chair Suesser asked why the Condition of Approval states it "may be replaced with equivalent." Planner Cawley responded that language was taken from the Land Management Code.

City Attorney Harrington added his recollection that there was some discretion in the Code in approving the final Landscaping Plan in terms of whether replacement should be like-for-like. He noted there was some leeway for the replacement in terms of what would make sense for the location. He referenced dying trees that did not do well in a certain location.

Director Milliken commented that with the wildfire risk, it might not be prudent to replace vegetation with the same type of vegetation because it could be something that presented a wildfire risk.

Chair Suesser felt the language could be stronger and that something should replace the removal of Significant Vegetation. Director Milliken stated that was how they interpreted it, and the "may" refers to the "like-for-like" replacement.

Planner Cawley reported that Staff asked the Planning Commission to find good cause for this Plat Amendment. Specifically, Staff looked at the General Plan and the neighborhood to look at what currently existed and the purpose of the neighborhood. He stated that the Park City General Plan for the Masonic Hill neighborhood states that it is a critical area for protection and conservation. There were parcels within the neighborhood on Steep Slopes that have Ridgelines, and those would be best utilized as open space. He added that the intention of building out the neighborhood was to control it through Building Pads that would protect vegetation and sensitive areas and to focus on protecting the wildlife habitats and corridors. He stressed that the General Plan called this out as a priority.

Staff also looked at the Aerie Subdivision and two other subdivisions adjacent to the Aerie Subdivision to compare restrictions on Lot sizes and Building Pads. He reported that on average, Lots in the Aerie Subdivision were $\frac{1}{2}$ acre. Historically, there were three other Lot Combinations in the Aerie Subdivision, and those resulted in Lots ranging from .69 acres to $3\frac{3}{4}$ acres.

The average Lot size in the Overlook in Old Town Subdivision was 1.25 acres, and that Subdivision does not have restrictions on Building Pads or building sizes. The Hearthstone Subdivision regulates house sizes to 3,500 to 6,500 square feet, depending on Lot size, and anything over 800 square feet for a garage counts towards the maximum house size. He advised that the average Lot size in that subdivision was 1.8 acres. Planner Cawley reminded the Commission the Plat Amendment will create a 1.04-acre Single-Family Lot and a 9.35-acre Estate Lot.

There was discussion regarding trails in the area. Planner Cawley advised that he spoke with Trails and Open Space Manager, Heinrich Dieters, who advised there were no public trails that go through the parcel.

Planner Cawley advised that there would be no public street or Right-of-Way that would be vacated or amended as a result of this proposal. Additionally, no easement would be vacated; however, he mentioned Condition of Approval 11 requiring that the applicant amend the 10-foot public utility easement prior to recordation of the Plat. He stated there was an existing utility easement on all sides of the property, and it should be amended to continue with the change to Lot B. He reported that the Development Review Committee met on March 7, 2023, and the Engineering Department requested a Condition of Approval that a non-exclusive 10-foot public snow storage easement on Eagle Way be dedicated on the Plat.

He requested that the Commission amend Condition of Approval 7 to be Condition of Approval 15, stating that any development on the 9.34-acre Estate Lot 1 would require additional Sensitive Land analysis. Planner Cawley advised that Staff did not receive any public input prior to this meeting. Staff recommended the Planning Commission review the Eagle Way Plat Amendment, Second Amended, hold a public hearing, and consider forwarding a recommendation for City Council's consideration on June 15, 2023.

Planner Cawley presented additional images to the Commission showing what was existing and what was proposed. He noted that both the Building Footprint and square footage would increase with this addition. He presented the proposed Site Plan and explained that the area in green depicted the proposed addition to the house. He also presented the architect's renderings showing the proposed addition. In response to an inquiry, Planner Cawley clarified that the proposed addition would be located in the Estate Zone.

Commissioner Johnson felt that the differing Building Height limits in the Single-Family and Estate zone were inconsistent, and queried whether they could limit the Building Height to 28 feet so the building would remain consistent in design. Chair Suesser indicated she would consider that. Commissioner Frontero stated that since the addition would be attached to the existing structure, he asked if there was a way to condition the approval so that it would not be a split Lot, and the entire new envelope would be within the Single-Family zone. It was noted that would require a rezone. Planner Cawley mentioned that a rezone was raised in the 2007 Plat Amendment process, and both the Planning Commission and City Council decided that it was not necessary.

In response to an inquiry, it was noted that there were four garages proposed in the final structure. Applicant Marriott explained that her husband had a large van that was on their driveway all winter long, and they decided they wanted to put everything inside. They intended to build a deep garage because the van is deep. She added that her husband also had several motorcycles and bikes he wanted to house in the garage. She advised that the new garage would be two-vehicles wide and two-vehicles deep.

Commissioner Hall asked about the yellow notes on the Draft Plat. It was noted that viewing it in Granicus likely caused these. Planner Cawley stated he would optimize the .pdf to remedy this.

Chair Suesser asked the applicant to address the prior question about the dimensions of the addition, and how the Steep Slopes prohibitions would not impact the addition.

Curtis Sorenson, AIA, Studio Moxie Architects, reported that the garage was 48' x 26' and was an irregular shape. He noted they were adding an art studio on one corner, so it was not a perfect rectangle. The height of the garage was approximately 25 feet. Chair Suesser noted the requirement was that the structure had to be smaller than 25' x 50', so the proposal was one foot over and may be impacted by the Very Steep Slope prohibition. Planner Cawley clarified that the Steep Slope needed to be 25' x 50'.

Chair Suesser saw Very Steep Slopes of 40%-plus near the proposed addition and asked whether it would interfere with the addition. Planner Cawley reiterated that the Steep Slope area needed to be 25' x 50', not the addition. He represented that the Steep Slopes were nowhere near this size. Chair Suesser felt that finding should be in the report so they know that the size of the Steep Slope that was measured would not impact the proposal. She stated that should be a Finding of Fact that would be helpful. Planner Cawley stated he could add that as a Finding of Fact. Chair Suesser noted that Planner Cawley represented that he measured the Steep Slope and it was less than the 25' x 50' threshold, and therefore it would comply. She would like to see that in future reports.

Commissioner Frontero understood that they were not measuring the addition; they were measuring the Steep Slope.

Commissioner Sigg asked if there were any easements for access where the public street ends and enters Estate Lot 1. Planner Cawley stated there was an existing access easement that was called out on the proposed Plat. He highlighted the location of the access easement. Commissioner Sigg wanted to make sure that they would have compliant access with any potential development on Estate Lot 1 and wondered if there was a Setback issue for the private drive easement to the addition. It was noted that the applicant planned for the future driveway with an easement on Lot B to access Estate Lot 1. Commissioner Sigg asked if there was anything in the Code that dictated how close a third-party house could be to someone else's driveway.

Applicant Marriott stated that was a concern for her as well and stated that her intention for this Lot was to keep it open. She also intended for her children to inherit this property and she wanted to make sure that they have access.

Chair Suesser referenced the Steep Slope image in the Staff Report, and noted there appeared to be some Significant Vegetation that would be disturbed with the addition. She would like a Condition of Approval that was stronger than Condition of Approval 9 which would require the re-vegetation of the area disturbed by the addition.

Commissioner Johnson agreed but noted that the language in Condition of Approval 9 matched the language in the Code. Chair Suesser felt that the language did not require the replacement of Significant Vegetation. Commissioner John Kenworthy agreed with Chair Suesser.

Chair Suesser opened the public hearing. There were no public comments. Chair Suesser closed the public hearing.

Commissioner Kenworthy expressed support for the application.

Commissioner Frontero referenced Figure 1 in the Staff Report and sought clarification that there would be two parcels if this application was approved. Planner Cawley confirmed there would be two Lots.

Commissioner Frontero struggled with the General Plan for Masonic Hill, wherein it states it was critical to protect and conserve this land. He acknowledged the applicant's statements that she had no plans to develop this land and asked if she would consider putting some of Lot 1 into a Conservation Easement. He felt that would be consistent with what the General Plan encouraged.

Applicant Marriott stated she would likely not consider a Conservation Easement because she wanted to ensure that she has three Lots that someone might build on one day in the future. She stressed this was her children's inheritance and would like to preserve three Lots. She added that she has worked well with the City for years on keeping this Lot open, especially considering that she preserved it from being multiple Lots. Applicant Marriott stressed that she wants the land open and natural looking and there was plenty of acreage for wildlife to move around. She was only putting three houses on 9 acres, and considering the open space she felt it was community conscious.

Commissioner Sigg appreciated the applicant's good stewardship of the land and noted it was unforeseen what could happen if the 9 acres turned into three Lots. He reiterated that on the graphic, the Building Envelope was pushed out to the point that it would come to the centerline of Eagle Way. He assumed the City Right-of-Way was 32 feet, and that fire access would require 20 feet. He felt if they were restricting the access by expanding Lot B, it would narrow the road. He felt there could be some potential future restrictions in terms of access to what could be a developable Lot. Commissioner Johnson understood that Commissioner Sigg's point was that as depicted, it was restricting access to Lot 1.

Commissioner Johnson noted that if there were future Subdivisions of this property, the owner would have to present a Subdivision application and address that issue. It was explained by Architect Sorenson that the applicant's design team made sure there would be plenty of space for a private driveway that could be installed right next to the house with enough space for fire truck

access to Lot 1 at any future date. It noted that there was an easement specifically for that driveway to service Lot 1, and nothing could be built on that easement at any point because it was needed to service Lot 1.

Commissioner Sigg noted that the Exhibit defined it as an easement, but it also showed a hatched line into that area. Commissioner Johnson noted that it would dead-end and turn into a private driveway. He asked if the existing dead-end was compliant with fire standards.

Mike Owens, Battalion Chief with the Park City Fire District responded to Commissioner Sigg's question whether there was enough fire access coming off of Eagle Way onto Lot 1. Chief Owens stated it was difficult to provide a "yes" or "no" response because there were so many variables. He explained that generally speaking when they look at any fire vehicle access pathway, if it is less than 750 feet, they go with the width of a typical driveway. There would also be other requirements such as turnarounds and bump-outs so that vehicles could pull around each other. Chief Owens stated that in a mountain environment, it was difficult to state that they would always need 20 feet because that would oftentimes be impractical. In this particular situation, he stated it was difficult to respond because it would depend on how far back the property would be developed.

Commissioner Sigg noted that ultimately, the Fire Department would have to sign off on the fire access for a proposed Subdivision. Chief Owens confirmed and commented that there was a lot to be said for planning for the future. They have found that sometimes when they plan too much for the future, the future never happens and an entirely different plan comes into place.

Planner Cawley recapped the proposed revisions as follows:

- He would add a Finding of Fact to specify the area of the Very Steep Slope with correct measurements.
- With regard to Condition of Approval 9, he requested the specific language sought by the Commission. Commissioner Johnson offered to just replace "may be replaced" with "shall be replaced" in the last sentence. Chair Suesser wanted to make sure they remained consistent with the Code.

City Attorney Harrington noted that would be more restrictive, and if the Commission could justify a finding because of the topography and the disturbance. Chair Suesser felt that the Commission noted on Figure 7 in the Staff Report which showed the topography and the Significant Vegetation that would be disturbed by the new structure.

In response to an inquiry, Director Milliken offered that they do not necessarily use native anymore because native does not necessarily work due to the changing climate. She suggested changing it to "similar species that is compliant with the Water Wise Landscaping Code."

Chair Suesser was not as concerned with the type and size, as she was with the requirement to re-vegetate. She supported the language suggested by Director Milliken.

Planner Cawley noted that he would add Condition of Approval 15, which was specific to additional Sensitive Lands review if anything were to be developed on Estate Lot 1. He asked the Commission about good cause and how he could include that as a Finding of Fact.

City Attorney Harrington stated that he heard mostly support for this Plat Amendment, and suggested looking at the initial Ordinance for guidance. There were findings that the increase in the Lot Size and home size were compatible with the existing neighborhood and original Subdivision, and the proposed areas were consistent with the overall zoning. He stated that those were the two fundamental areas reviewed by the Commission to ensure that the development patterns are consistent. He added that there was not a "one size fits all" for these Subdivisions, and the Commission had a fair amount of discretion in making the determination. City Attorney Harrington stated that the crux was ensuring that the new Lot would comport to something that is consistent with the neighborhood and the original Subdivision and the General Plan goals.

Commissioner Hall offered language that it was consistent with the neighborhood and the General Plan, there were no exceptions requested per the LMC and it would not create any Exceptions or Non-Conformities to the LMC.

City Attorney Harrington stated that was what the Commission needed to get to, and noted that Park City was one of the few jurisdictions that have litigated this type of analysis and it came down to the Commission's objective findings in terms of the analysis. He reiterated that this was where the Commission had discretion in making a determination that it was good planning.

Commissioner Johnson stated that if the Commission was able to limit the Building Height, then they could condense Conditions of Approval 4 and 5, and state that any addition to the existing structure in the Single Family Zone or to the structure in the Estate Zone shall comply with the zone height of 28 feet from Existing Grade. There was consensus to reduce the height to 28 feet, as suggested by Commissioner Johnson.

Chair Suesser noted Planner Cawley's comment that Condition of Approval 15 would only apply to the Estate Lot 1 and expressed continued concerns regarding Condition of Approval 7 because she did not feel it addressed the Very Steep Slope that exists in this area. She did not feel the language was strong enough to prevent significant retaining walls and significant cuts and fills into the slope.

Marshall King, P.E., Alliance Engineering, explained that they would be putting the garage in place of what is a man-made Steep Slope. The Steep Slope was created because the driveway extends there and the basketball goal was there. The garage would fit into that space, and the grading would come up to the garage, so essentially the garage would become the retaining for the soil. Engineer King added that the wall would be going away, and this proposal would reduce Steep Slopes. Chair Suesser noted that this explanation was helpful. Engineer King added that the retaining wall would be pushed back and the garage put in its place.

MOTION: Commissioner Johnson moved to forward a POSITIVE recommendation for City Council's consideration on June 15, 2023, for the Eagle Way Plat Amendment, Second Amended, as amended, based on the Findings of Fact, Conclusions of Law and Conditions of Approval, as amended as follows:

Findings of Fact

Background:

1. The property is located at 1460 Eagle Way.

2. The property is listed with Summit County as Parcel number EW-B-1 AM.
3. The property is in the Single-Family Zoning District.
4. The Applicant owns contiguous property in the Estate Zoning District, Estate Lot 1, and metes-and-bounds Parcel SA-254-2-C.
5. The Applicant proposes amending the plat to increase the size of 1460 Eagle Way (Lot B) to accommodate a garage addition, create an open space buffer between Lot B and Estate Lot 1, and combine Estate Lot 1 with the metes-and-bounds Parcel.
6. The Land Management Code regulates Lot and Site Requirements pursuant to LMC § 15-2.10-3 for Estate Zoning District and § 15-2.11-3 for Single Family Zoning District.
7. A Single-Family Dwelling is an allowed Use in the Single-Family, and also in the Estate Zoning District for Lots with at least three acres.
8. The required Front Setback in the Single-Family District is 20 feet.
9. The required Side Setback in the Single-Family District is 12 feet.
10. The required Rear Setback in the Single-Family District is 15 feet.
11. The required Front, Rear, and Side Setback in the Estate District is 30 feet.
12. The maximum Building Height in the Single-Family Zoning District is 28 feet from Existing Grade.
13. The maximum Building Height in the Estate Zoning District is 30 from Existing Grade.
14. The property is within the Sensitive Land Overlay.
15. The Applicant's Representative compiled a Sensitive Land Overlay Report.
16. The proposal complies with the Sensitive Land Overlay Zone Regulations.
17. The Planning Commission must determine Good Cause for this Plat Amendment.
18. No Public Street or Right-of-Way is vacated or amended.
19. No easement is vacated.
20. A 10-foot-wide public utility easement exists along the perimeter of Lot B and must be maintained.

21. The Development Review Committee met on March 7, 2023, reviewed the proposal, and require a Condition of Approval for a 10-foot snow storage easement along Eagle Way.
22. The Steep Slopes near the proposed addition measured less than 25' x 50'.
23. The Planning Commission finds good cause for this Plat Amendment in that that it would be consistent with the neighborhood and the General Plan, there were no exceptions requested per the Land Management Code, and it would not create any Exceptions or Non-Conformities with the Land Management Code.

Conclusions of Law

1. The Plat Amendment is consistent with the Park City Land Management Code, including LMC Chapter 15-2.10 Estate (E) District, LMC Chapter 15-2.11 Single-Family (SF) District, LMC Chapter 15-2.21 Sensitive Land Overlay Zone (SLO) Regulations, and LMC § 15-7.1-6 Final Subdivision Plat.
2. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
3. Approval of the Plat Amendment, subject to the conditions stated below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the Plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The Applicant shall record the plat at the County within one (1) year from the date of City Council approval. If recordation has not occurred within one (1) year's time, this Plat approval will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. The plat shall note that fire sprinklers are required for all new construction.
4. Any addition to the existing Structure in the Single-Family Zone or to the existing Structure in the Estate Zone shall not exceed the zone height of 28 feet from Existing Grade.
5. Any addition to the existing Structure in the Estate Zone shall not exceed the zone height of 30 feet from Existing Grade.
6. The Applicant shall avoid, or to the greatest extent possible, minimize proposed cuts and fills. All Graded slopes shall be recontoured to the natural, varied contour of the surrounding terrain.

7. If final plans show the introduction of new retaining walls, then the Use, design, and construction of all retaining walls is subject to an Administrative Permit based upon assessment of visual impact, Compatibility with surrounding terrain and vegetation, and safety.
8. The Applicant shall provide a landscape plan pursuant to LMC § 15-5-5(N)(4)(i)(1-4), which requires preservation of Significant Vegetation. If Significant Vegetation is determined to be unhealthy and/or unsafe, under a Site-Specific review conducted by the Forestry Board and Planning Director in conjunction with a building permit review, and because Figure 7 in the Staff Report showed the topography and that Significant Vegetation would be disturbed by the new structure, and Significant Vegetation removed shall be replaced with similar species that is compliant with the Water Wise Landscaping Code.”
9. Construction shall be organized and timed to minimize disturbance of Sensitive or Specially Valued Species occupying or using on-Site and adjacent natural Areas.
10. The Applicant shall amend the 10-foot (10') public utility easement prior to recordation of the plat.
11. A non-exclusive ten-foot (10') public snow storage easement on Eagle Way shall be dedicated on the Plat.
12. Recordation of the Plat is required prior to the issuance of a Building Permit for any addition to the existing Structure.
13. City Engineer review and approve all Lot grading, utility installation, public improvement, and drainage plans for compliance with City standards prior to issuance of any building permits.
14. Any development proposed on Estate Lot 1 will require additional Sensitive Lands review and analysis.

Commissioner Kenworthy seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

Following a short recess, Chair Suesser called the meeting back to order.

C. 1325 Empire Avenue and Parcel SA-200 – Plat Amendment –The Applicant Proposes a Plat Amendment to Amend the Knudson Subdivision and Parcel SA-200 and Re-Subdivide the Vacant Lots into Four Lots to Eventually Allow for Four Single-Family Dwellings. PL-22-05357

Planner Ananth introduced the applicant's team, which included project architect, Bill Van Sickle, AIA, and the applicant's representative, Gavin Steinberg. She reported that City Engineer John Robertson, Battalion Chief Owens, and Housing Program Manager Jason Glidden were available to respond to questions. Planner Ananth noted that this item was before the Commission in February and was continued to this meeting. She presented an image showing the location of the property as well as the original Lots that showed these were originally 3 ½ Lots, plus the closed

City Right-of-Way ("ROW") for Norfolk Avenue. The project is located in the Recreation Commercial ("RC") Zoning District. She explained that the purpose of the RC Zone allowed for resort-related housing as well as the promotion of pedestrian connections.

Planner Ananth reminded the Commission that the applicant proposed three Lots, with access to the left of their private driveway, which would also provide access to the fourth Lot, Lot D. At the February meeting, the Planning Commission requested some additional feedback on a Setback determination for Lot D, the reasoning behind the Fire Marshal's determination for the proposed stairs, the status of Norfolk Avenue parking vehicle circulation, and snow storage information. She stated that the project was modified in terms of the Lot sizes, but for the most part, was very similar to what was presented in February. The application still consisted of four Lots, and the proposed sizes were compliant with the RC Zoning District.

Planner Ananth reported that the Planning Director issued a determination that Lot D was a corner Lot because it has access from North Norfolk Avenue. As a result of this determination, the Lot has two Front Setbacks, required to be 12' and 13' Setbacks. She added that the Rear Setback opposite the Lot Line would be three feet. She added that primary access was conditioned to be from the south side of the proposed structure. She reported that the Fire Department issued a letter that described the reasoning for the fire access stairs, and stated that they wanted the stairs in place prior to the delivery of any combustible materials to the site. She noted this meant that the stairs would need to be in place prior to construction and delivery of materials. The stairs will be the primary fire access for the Fire Department.

Planner Ananth reported that currently, the applicant was willing to put the stairs on their property, but their preference was that the stairs be private, as it would create a liability issue by allowing public access on these stairs. She reiterated that these stairs would be private for emergency access only; however, because they know the City plans to develop a staircase adjacent to this staircase, Staff has explored the possibility of shared public access. She noted there was some concern that the City stairs would not be constructed in time, so they conditioned the application so it could work out with either private stairs or shared access on the City stairs. If the City stairs were installed, which may or may not require an easement on the applicant's property, they would be considered a public staircase and would provide public access into the site and up the stairs.

In response to an inquiry from Chair Suesser, Planner Ananth stated that the City stairs could provide the emergency access required by the Fire Department, as they would be located adjacent to the property. Planner Ananth stated that the portion of Norfolk Avenue located north of 13th Street was a public road that has been privately maintained by the three houses that abut it to the west. This agreement was put in place in 2003 as a Condition of Approval for the builder to construct those three houses. She stated that the City owned the Blue House adjacent to North Norfolk Avenue on the right side, and recently the City contributed some amounts for the maintenance and plowing of that street. She reported that the applicant has agreed to participate in the maintenance and plowing of the street, and would assign this responsibility to whoever purchases the Lots. The applicant requested historical information in terms of costs of maintenance and snow plowing before they commit to a percent. This would be something that would be agreed to prior to this Plat Amendment going to City Council in June.

In response to a question from Commissioner Frontero, Planner Ananth stated that the applicant would be required to maintain their private driveway, but they were also willing to consider cost-sharing with the abutting property owners and the City for the maintenance and snow plowing of the street.

In regard to the Commission's comments from the February meeting, Planner Ananth reported that with regard to the requirement that each Single-Family Dwelling have two parking spaces, the applicant advised that Lots A, B, and C would have a one-car garage with parking in front that would not be in the Setback. Lot D would have two parking spaces. With respect to good cause, she reported that Staff recommended that good cause exists because the application complied with the Subdivision procedures, it would further the Old Town goals outlined in the General Plan, and the shared driveway was preferred in the Historic District Guidelines. In addition, all Lots would meet the zoning requirements, it would increase the housing stock near the resort, and Single-Family Dwellings were common in the neighborhood.

In addition, no public streets or utility easements will be vacated, and the configuration proposed by the applicant would not create any remnant land.

Planner Ananth reported that Staff received one public comment that was forwarded to the Commission in February. Staff recommended the Commission review the Plat Amendment, hold a public hearing, and consider forwarding a positive recommendation to the City Council. She noted that she added Conditions of Approval since the Draft Ordinance was published on Friday. These additional Conditions were that the applicant agreed that they and their successors would be responsible for an agreed-upon portion of the maintenance and snow plowing expenses for North Norfolk Avenue from 13th Street north to the applicant's property.

An additional Condition of Approval was that prior to the issuance of any Building Permits, the applicant would submit a detailed Construction Management Plan for review and approval by the Building, Engineering, and Planning Departments. She noted this was a tight site, so a good Construction Management Plan would be critical. The Construction Management Plan would also contain a Communication Plan so that there would be bi-monthly communication via e-mail of major construction activities coming up, and deliveries so that abutters to that roadway would be aware of what would be coming up. The applicant will also be required to provide 24-hour contact information for the Site Supervisor and property owner posted on-site and in the Communication Plan.

Chair Suesser asked if Lots A and B were currently combined. Planner Ananth stated that Parcel SA-200 was part of this project, and believed that was Lots 6 and 7. She would have to refer to the survey to confirm whether that was currently one or two Lots. Bill Van Sickle, AIA, Van Sickle Design & Drafting, offered his belief that it was one Lot now. The proposal would take the 3 ½ Lots and divide them evenly among the three proposed Lots. Chair Suesser understood that the blue Lot as depicted on a graphic, was 1 ½ Lots, and wondered if it made sense to break up Lots 6 and 7 and reduce it down to two homes, rather than keeping it combined and having one home there.

With regard to the applicant's willingness to share in the costs of maintaining and plowing the road north of 13th Street, Chair Suesser recalled that one of the Commission's questions was about the terms governing the City's maintenance of that road. Planner Ananth indicated that the City did not maintain that road; rather the original builder of the three Lots to the west of Norfolk Avenue currently maintain the road. She stated that the City had recently been contributing, although did not know if the City historically had contributed. The City was not part of the agreement with the builder and its successors of those three houses that were required as a Condition of Approval. She confirmed that the City owns the road, and added that the road did not meet the width requirements. She also confirmed that there were currently no plans for the City to take over maintenance and plowing.

Chair Suesser thought the City sold the road. Planner Ananth stated the City sold the road north of the three homes, which was depicted in yellow in a prior graphic presented to the Commission. She understood that the City owned the road in front of the three abutting homes, but its ownership ends at the applicant's property.

Commissioner Sigg asked if the fact that the road was not a standard-sized road made the uses along there non-conforming. Planner Ananth responded in the negative.

Commissioner Johnson offered that if this was a private road and they asked to have it dedicated by the City, the City would likely not be agreeable because it did not meet the standards. Planner Ananth believed the City was not currently interested in maintaining the road.

In response to a request for clarification, Planner Ananth explained that the applicant proposed to extend Norfolk Avenue at the exact width that it is currently to the north as a private driveway with a shared access driveway to the four Lots. Commissioner Frontero recalled that at the last meeting, he requested the applicant consider not building on Lot D because he felt its north/south orientation was not compatible with the neighborhood. He continued to believe it was not compatible, and the current application included a Lot that seemed to run counter to the other Lots in the neighborhood. He felt there was a better use for Lot D, and mentioned garages, auxiliary dwelling, or snow storage.

Chair Suesser asked Planner Ananth to address the snow storage and noted the heightened concern about snow storage in Old Town. She stressed that it was an important issue that they should pay attention to in looking at this plan. Planner Ananth explained that the applicant's driveway would be heated, which would help with some amount of snow that would not need to be stored. Additionally, the applicant prepared snow storage areas on Lot D, which were shown in an attachment. There would be a snow storage area in the front of Lot D, as well as at the rear.

Commissioner Frontero asked if there would be any requirements to remove snow if the storage reached 8' high. Planner Ananth felt that would be determined at the time, and there was always an option for homeowners to have snow removed from the site. There would be an expense associated with snow removal. Commissioner Frontero found the application to be making assumptions as to who would maintain the road and the driveway. He understood that the applicant agreed to maintain the road, but it was very undefined. He would like to see a Homeowners' Association ("HOA") required for these four Lots, and he would like to see the three abutting homeowners invited into that HOA. The HOA could then have definitive rules about removing the snow, fixing the potholes, and maintaining snow storage. He stressed that this could be coordinated and they would have something in writing about the maintenance of the four properties, and potentially all seven properties. He did not like the vagueness of the current arrangement with the three Lots and expressed concern that this vagueness would extend to the seven Lots. Planner Ananth commented that that was an interesting idea, but did not know they could require the three Lots to join.

Chair Suesser was concerned about the fact that the shared private driveway would be heated; yet there was nothing in writing that commits to that. If there was nothing in writing, she questioned how they would know that snow storage would be taken care of by the heated driveway. Commissioner Johnson added that a heated driveway would not align with the City's Sustainability goals. Planner Ananth was unsure if the heated portion of the driveway would be the entire width of the shared driveway or just the private drives off of the shared driveway. Chair Suesser

reiterated her request for clarification on whether the Lot highlighted in red on Figure 1 in the Staff Report was currently one Lot. She stated it looked like it had already been combined into one parcel. Planner Ananth stated it looked like one parcel comprised of two Lots.

Commissioner Sigg understood that the Old Town Lot Combination regulations being considered for amendment would not apply to the RC Zone. He commented that as he looked at this area, it was very consistent with what that zone really looks like. It seemed to him to be counter-intuitive because the neighborhood was everything one would see in HR-1 and HR-2.

With regard to Commissioner Frontero's concerns regarding Lot D, Commissioner Sigg observed that they juxtaposed the Front, Side, and Rear Setbacks in the way they want to make it work. He felt the Front Setback would be the area off the driveway; however, it appeared that it was placed at the portion near Norfolk Avenue. He queried whether there was any lineal width requirement to call something a front yard or side yard. He added that the portion of Lot D along the driveway was identified as the Side Setback. He reiterated that logically, the road would be what dictates the front yard of the house, rather than the south side which has little connection with the Norfolk ROW.

Commissioner Sigg would insist that the driveway should come in at the south end of the house, as opposed to the west end of the house. He expressed that it appeared that the Setbacks were created as a matter of convenience, and wanted some justification as to why the front yard would not face the driveway.

Planner Ananth responded that Staff determined there were two Front Setbacks and two front Lot Lines on this property, which would reduce the buildable envelope. She confirmed that there was no lineal width requirement for the Front Setback.

Chair Suesser observed that the home on Lot D could start three feet from the private shared driveway.

Director Milliken clarified that the private drive was located on Lot D, so the Front Setback was from the property line for Lot D. It would therefore be closer to the private drive, but it would still have the Front Setback of 12 or 13 feet. The private drive would become an easement for the benefit of the homeowners using it.

Commissioner Hall expressed that her questions were answered during the last meeting.

Commissioner Johnson referenced the Fire Department's letter and noted that the second sentence in the first paragraph stated "The owner indicated that a turnaround was not possible in the space provided." He requested clarity on that statement.

Planner Ananth explained that currently, the fire trucks do not pull into Norfolk Avenue north of 13th Street because of the insufficient roadway width. Because of that limiting factor, there would not be room to extend into the project.

Commissioner Johnson assumed that because this portion of Norfolk Avenue was non-conforming in width, and because this would be the last development on that street they would just leave it in its non-conforming state.

Planner Ananth added that the City owned the property to the east which effectively limits the width of the road. At some point, the City could potentially demolish the Blue House and widen the road. She was unaware of any plans in that regard.

Commissioner Johnson noted that the only options would be either to build the fire access stairs or for the developer to give up a portion of Lot D or Lot A for a turnaround. He understood they did not want to give up a portion of Lot D or Lot A. Planner Ananth felt that an option could be to make this dead-end a cul-de-sac with lots of paving, and questioned whether that would be what the Commission would want this area to be.

Commissioner Johnson requested feedback from Manager Glidden about access to the potential future development on the City property adjacent to Lot D and the stairs. Planner Ananth noted that Manager Glidden had to leave the call momentarily, but reported that they had coordinated multiple times with the Housing Department, and as of now, they were very aware of this project and did not have any requests nor were they requesting any changes.

Commissioner Johnson understood that the stairwell would be publically accessible. Planner Ananth clarified that the City's stairs would be public, but the fire access stairs for this project would not have public access. The private stairwell from Empire Avenue to this project would only benefit this project.

Commissioner Frontero asked who would shovel the snow off the stairs. Planner Ananth stated the four Lots or their HOA would be responsible for snow removal from the stairs. Commissioner Frontero highlighted that this was another reason why there needed to be an organized entity for these four homeowners.

With respect to the proposed stairway to the north, Commissioner Sigg recalled a question at the last meeting about the easement that cuts across the property to the west connecting the Knudson property. Planner Ananth reported that an access easement was recorded for the benefit of this development, and was attached to the Staff Report.

The applicant's representative, Gavin Steinberg, referenced the exhibits prepared by the applicant that includes the stair access and snow storage. He represented that the applicant was agreeable with an HOA, and stated that while they had not discussed including the three other Lots, they were amenable to inviting them to join.

In terms of the private stairs, Applicant Steinberg stated they would rather have the public stairs as it seemed silly to build a private set of stairs next to a public set of stairs. He mentioned that in one of the exhibits, they showed as part of the proposed private drive a section akin to a ski easement that would delineate the public access. At the time of construction, Applicant Steinberg stated that if they had to put in the private staircase, they would install it without public access. When the public stairs were put in, they would be happy to remove the private stairs and allow it as a public access. The only reason they would not allow public access on the private staircase was that they would not want to assume liability for that staircase as a public staircase. If the City were able to build its staircase in the timeframe that the applicant needs to develop this property, the applicant would be happy to provide public access at that time.

Applicant Steinberg expressed that it was a matter of timing of how they construct the stairs per the Fire Department's requirements in order to build the project. He stated they would still put the

public access through; it just would not become public access until such time as the public stairs were built.

Chair Suesser asked about dedicating the private stairs to the City so the City would therefore assume liability. Applicant Steinberg stated they would be agreeable to that, but noted there was a City standard they would need to build to. He noted that the applicant advised the City that they would be willing to contribute what they would spend on the private staircase towards the construction of the public staircase. He stated that the applicant would prefer to build the public staircase in the beginning, but they did not know the City's timing with respect to the City staircase.

Commissioner Johnson asked about the price difference between the private staircase and building a public staircase to the City's standards. Applicant Steinberg stated they did not have a quote on building a public staircase. They do have a quote for the private staircase. Planner Ananth stated there would be a significant difference in cost. She added that one option was that if the applicant had to build the private staircase in order to get the project going, and then the City eventually builds one adjacent to it, the applicant could remove the private staircase without a Plat Amendment. She noted that was one of the Conditions of Approval so there would not be a double staircase that could confuse the public.

In response to an inquiry, Planner Ananth did not believe that the proposed staircase would be located on a Steep Slope. Applicant Steinberg also noted the applicant's exhibits showing where they would place snow storage. They reduced the size of Lot D significantly, and among the four Lots they would have 1,000 square feet for snow storage. If they have to remove snow that would be a shared cost of the HOA.

Commissioner Kenworthy asked about the location of the 1,000 square feet for snow storage. Applicant Steinberg referenced the exhibit and advised that it was split up among the four Lots. Commissioner Johnson noted it was not on the Plat and was not included as a note on the Plat. Commissioner Kenworthy agreed with Commissioner Frontero that Lot D should be considered for Accessory Dwelling Units ("ADUs") that could help out with many of the non-conformities. He noted the non-conforming street, two front yards, fire access via stairs, and the issue of who pays for what. He observed that the Lots did not look conforming or compatible with the neighborhood.

Applicant Steinberg offered that the east/west configuration was certainly more common, but there were north/south Lots in Old Town. He commented that part of the character of Old Town was the diversity in structure. He added that with regard to ADUs, they talked about trying to minimize the amount of traffic going up and down the non-conforming street, and putting ADUs on Lot D would force street parking on the private driveway. He felt this would be the opposite of what they were trying to accomplish, which was to minimize the amount of traffic and keep a development that feels and has the same sense of Old Town.

Applicant Steinberg added that they met with Planning Staff on numerous occasions on how to maintain the character on Lot D, and that was where the two Front Setbacks came from. Instead of having a disconnected road coming off Norfolk Avenue, they angled the private drive to have the same approach as Norfolk. He stressed that they tried to take everything said during the last meeting into consideration and created the exhibits to show the Commission how it could be accomplished. This included why they felt creating a fourth Lot made more sense than ADUs.

Chair Suesser referenced the comments made at the last meeting regarding how this development would fit with Woodside, Phase 2. She understood that Woodside, Phase 2 was on appeal, but

noted that the City owned the Lot just east of the Blue House. She noted that Setbacks were a big issue, and was a basis for the appeal. She expressed concern over the Side Setback that would impact the Woodside, Phase 2 development. Planner Ananth commented that MPDs or AMPDs have 25' perimeter required Setbacks. There would therefore be a generous buffer between this development and other buildings.

Chair Suesser noted that development also has a connection to Norfolk Avenue and asked where that connection would be located. Planner Ananth was unaware of the plan for the future Woodside, Phase 2. Director Milliken stated that the City owned the Lots on the south and to the east of Norfolk Avenue. One of those Lots is the Historic Blue House on the corner. Planner Ananth presented an aerial image showing the Lots in the area.

Chair Suesser commented that the proposed public stairway in the prior Woodside, Phase 2 project further north from this location. Planner Ananth stated the goal would be to connect Woodside Avenue to Empire Avenue through a set of stairs. Chair Suesser observed that was aligned with Woodside Phase 1 to Park Avenue. If it was aligned, it would be just adjacent to the applicant's project. Chair Suesser added that the alignment might not ever come to fruition and the private stair might never be abandoned for a public stairway because it would not be in the location that was part of the Woodside, Phase 2 configuration. Planner Ananth agreed that it was in a different location; however, if the goal were to align it, it would work out to be adjacent to this property. She stressed it was a future project that was unknown.

Chair Suesser pointed out that the vision was creating a straight shot because pedestrian access from Empire Avenue to Park Avenue had been a long-sought need for this area. People wanted this pedestrian access way, and it should be clear, wide, and easy to access. A jag in the access was not contemplated when Woodside Phase 1 and Phase 2 were designed. Planner Ananth commented that it was very close, and if they were to align it with the existing pathway, there would likely be some remnant land that would make the site less developable. A slight shift over might make sense.

Chair Suesser commented that they would also need to consider where it was crossing Empire Avenue, and maybe this location would be more desirable than the prior location because it would be closer to the corner of Empire Avenue and Manor Drive.

Commissioner Sigg reiterated that he was struggling with the Setback issues of an AMPD, and questioned why the City project could not be 2 feet from Lot D. Commissioner Hall appreciated this comment, but felt it would be better suited for the discussion with the consultant as they contemplate AMPD amendments. Commissioner Sigg felt that the City was bending and compromising on these Setbacks and their locations. Planner Ananth noted they were Code-required Setbacks. Commissioner Sigg was not happy with the Side Setback on the east side of Lot D because the Setback on the City's property to the east was so large, and every inch of that land had great utility to the City. On the applicant's property, they were deciding which Setbacks go where which he felt was arbitrary. The City was taking a big hit because it could not build closer to the property line.

Planner Ananth stated that one of the reasons for the large perimeter Setback was that Building Heights for MPDs and AMPDs were different. Commissioner Hall wanted to discuss this issue at another time when they were talking about AMPD amendments, but it was not part of this application.

Chair Suesser reminded the Commission that this project was in Old Town, and the idea of reducing Setbacks, including on this parcel, was a sensitive matter due to the close proximity of Old Town homes. She agreed that the 3-foot Setback on the west side of Lot D was troublesome. She added that the north/south configuration of the home was also an issue. Chair Suesser suggested the applicant consider building just one home on SA-200 given the potential congestion on the private drive.

With regard to Commissioner Sigg's comments regarding the Side Setback, Commissioner Hall stated that was the zone Setback in compliance with the LMC. She felt that this application proposed two Setbacks that would make the Building Footprint smaller than what they would have by having only one Front Setback, one Rear Setback, and two Side Setbacks. She commented they were getting an extra nine feet of Setback because they would have two Front Setbacks and only one Side Setback. She stressed that Lot D would have more Setbacks than they would in an ordinary configuration.

Commissioner Hall highlighted that the Setbacks in this application were allowed in this zone and that no exceptions were requested or required. She expressed that they were to process these applications based on whether they comply with the LMC. Here, the application proposed a three-foot Side Setback, and on Side Setback proposed 12' when they were only obligated to request three feet. Commissioner Hall opined that Lot D was in compliance with the Code in terms of Setbacks.

Manager Glidden re-joined the meeting via Zoom. Commissioner Kenworthy asked Manager Glidden to speak to the alignment for the pedestrian path from Park Avenue Woodside, Phase 1 to Empire Avenue. Manager Glidden advised they were still in the planning process for Woodside, Phase 2. There were no applications and the design was still being worked on, but they anticipated installing a public walkway and continuing it from Woodside Avenue to Empire Avenue. The original plans were to have the pedestrian walkway on the Knudson-A parcel to the south border. They want to bring that walkway over as much as possible to leave as much developable land as possible on the Knudson-A property. He stated they would try to make it as straight of a connection as possible, but it would not necessarily align 100% perfectly.

Manager Glidden explained that the City would build its stairs to certain standards. He did not believe the developer would be required to meet those standards because it would not be a public walkway. He reported that they have had discussions with the developer and noted that they did not want to duplicate work. They have looked at whether the City's timing in installing a public staircase could work with the applicant's timing, and they could work together with a contribution from the applicant to the cost of the public walkway running from Empire Avenue down to Woodside Avenue.

Commissioner Johnson asked about the difference between Park City Fire District's emergency access stair standards and the City's standards. He was looking at public benefit and good cause, and he felt it would be reasonable to ask the applicant to build the staircase to the City standards given the other non-conformities surrounding this property. He understood the City standards were high and expensive, but there was a reason for that.

Planner Ananth understood that City stairs were always metal and typically only 4' wide in most places in Old Town. In this location, the City was looking at a 6' wide staircase if possible. That would increase the cost due not only to the material difference but also the width. The applicant would likely construct a wooden staircase.

Commissioner Johnson did not feel the applicant's private stairs and the City's stairs would align right now timing-wise, and understood the applicant was willing to contribute. He questioned whether it made sense to tear out the private stairwell when the City stairs were ready to be built.

Planner Ananth stated that the best-case scenario from the applicant's standpoint was that they make a contribution to the City, and the City constructs the stairs. Because that scenario seems a bit optimistic, the applicant was prepared to construct his or her own staircase in order to build the project.

Manager Glidden understood that the applicant would build the staircase on their property, not on City property. He believed that the easement agreement with the Knudson Family provided that once the City completed its staircase, then the private staircase would be removed. The City was not a party to that easement, as it only covers access for this project.

Chair Suesser asked how the City would have access from Woodside, Phase 2 to Empire Avenue. Director Milliken advised that access would be through City property. Manager Glidden noted that the City owned the Knudson property all the way to Woodside Avenue, so the stairs would not require an easement over any private property. The plans were to install the stairs on the south side of the Knudson-A property.

Planner Ananth identified the location for the currently planned public staircase, which would be temporarily adjacent to the applicant's private staircase. If the City were ready to build the staircase, the applicant would be willing to give an easement to the City in addition to a contribution towards its construction.

Commissioner Sigg understood that the City stairs would ultimately become the fire stairs to access this development because the applicant's stairs would most likely be torn down for a small side yard. He commented that the City would therefore pick up the fire access burden in the future.

Commissioner Hall noted that was much like the fire access to her own home. She did not understand why they were talking about this ad nauseum when they approved the prior application that also conformed to the Code and fit in with the neighborhood. She felt this project fit the neighborhood much more clearly and perceived that the Commission was giving this applicant a much harder time than the prior applicant. She stressed that this applicant was compliant with the Code.

Chair Suesser opened the public hearing.

Mark Brian lives in the home adjacent to Lot A and borders the property in question. He thanked Commissioner Frontero for recognizing the complexity of trying to manage this street because he has been doing it for the last 20 years. He stated there had been times when he had to maintain and plow the road at his expense, which has totaled approximately \$1,700 per year. The Bank repossessed one of the homes on the street, and there was no one to contribute to these costs. Over the course of 20 years, he has spent approximately \$30,000 plowing the street, and he only received \$100 from another occupant on the street. Mr. Brian stated that it was more complex than just the three homes built along that street. He advised that the road was constructed with contributions from four owners—himself, the neighboring Lot, the Knudsons, and the owner of the Lot at 1307. He explained that the City required them to build sidewalks down 13th Street to the

corner of Woodside Avenue that had nothing to do with their properties. They also had to install gutters, as well as sewer and power. He clarified that the sidewalk installed by the property owners went from the corner of 13th and Norfolk Avenue to 13th and Woodside Avenue as required by the City.

Mr. Brian referenced an agreement signed in 2003 called a Non-Exclusive Encroachment Permit that contains ambiguities and inconsistencies. He believed that this document outlined the City's responsibility for the last 20 years to plow the road. The document states that the owner/builder was responsible to plow the road, but when the builder transferred ownership of the properties, the snowplowing obligation was not conveyed to the new landowners. He posited that he might have a claim against the City for reimbursement of the costs he has expended to plow the road.

Chair Suesser asked if there was a provision in the agreement that dedicated this street to the City upon transfer from the developer to the owners. Mr. Brian stated there was an ambiguity, and they would have to have legal counsel look at it. Planner Ananth advised that the Encroachment Agreement was attached to the Staff Report, and read paragraph 1 as follows: "This Encroachment Agreement and Non-Exclusive Right to Use the improvements constructed pursuant hereto shall be appurtenant to the following described property: Lots 3, 4 and 5 of Block 19, and other properties abutting platted Norfolk Avenue that do not otherwise have frontage on an access from an existing street." She explained that the Blue House has frontage on an existing street, 13th Street; therefore, this agreement was between the original builder and its successors, and the City. She felt it was clear.

Mr. Brian referenced paragraph 6 and read it as follows: "The owner or their successors shall maintain the roadway..." However, in the next sentence, it states, "The owner is responsible for snow removal and storage of the removed snow..." It clearly states that the owner is the builder in the first paragraph of the document, so Mr. Brian contended that when the builder transferred ownership, the transfer of responsibility did not occur. He understood that when there is ambiguity in a contract, it falls upon the contract writer to take fault. Mr. Brian stated additionally that the street was unsafe, and this winter showed how treacherous the road could become. He commented that there were a number of people who use that road, including the four condominiums at the corner, the three homes on Norfolk Avenue, and the Blue House. The applicant wants to build four more homes, and then there is the Woodside, Phase 2 project where he believed that the City planned to build a four-story structure that would dramatically increase the density and use of the street. He explained that the road was currently adequate as a one-lane driveway for three homes, but it was not built to accommodate a lot of additional residents. Mr. Brian contended that the road should be improved. He questioned what would happen if a disaster occurred that required ambulances, fire trucks, police cars, and others, and stated this road would not accommodate that type of traffic. With the additional homes at the end, they would have difficulty getting by each other.

Mr. Brian further stated that the snowplow person he has used moved out of town and does not get to the street until 2:00 p.m. He has had waist-deep snow multiple times in his yard until mid-afternoon. He uses a snow blower to clean it up the best he can, but he questioned what would happen if he were unavailable to do that. He commented that they were paying City taxes, but not receiving the City benefit of having their street plowed. He pointed out that the device that plowed the Senior Center and Library could handle tight spots. Mr. Brian added that they have no street parking, so when these additional homes are built he questioned where their guests would park. Chair Suesser noted there was parking along Library Field, but Mr. Brian stated it has a two-hour limit and was restricted during the winter. He stressed that the street and the parking were a mess

and unsafe, and he felt the City had accountability. He expressed that he did not want to go to court over this, but he is a tax-paying citizen and he wants the City to be accountable and responsible. Mr. Brian stressed that the street also needed to be widened, and was concerned about the additional traffic and density. All of this was driving the need to improve the road.

With regard to the stairway access, he would like assurances that he would be able to walk to and use the stairs whether it was built by the applicant or the City. He has a project management background, and it seemed that the City could come up with a budget to assist the builder and build one stairway. The public access was confusing and needed to be clarified before moving forward.

Mr. Brian wanted the City to take over plowing the street, and he did not know whom he could talk with in the City. He felt there might be an ethics issue in speaking with the City Attorney because the City Attorney represents the City. He agreed with the concept of an HOA and commented that the City owned 50% of one side of the road, so he wondered how they would adjudicate who was responsible for what percentage of the road. He would argue the City should bear 50% of the cost of the road. He explained that the City owned the Lot with the Blue House and the two sheds, which totals approximately 100 feet along that road. It would become complicated in terms of who owes what, who needed to participate, and the cost-sharing responsibilities. He has been paying for 20 years and he was tired of it.

Mr. Brian wanted the City to step up and be responsible knowing that they are receiving tax dollars. He was in favor of the project, and getting the City street cleaned up would be highly beneficial to this development and the three current property owners. He noted that drug addicts and drunks have resided in the brown shed and he has had to call the police several times. The brown shed collapsed under heavy snow this past winter, which presented a safety hazard. The Blue House is also a health hazard and an eyesore.

Andy Holland owns and lives at 1315 Norfolk Avenue. He was not against this project, but he wanted the City to contribute towards the snow plowing and the other things that need to be done to make this application work. He stated that he is a Director at Northrup Grumman, which makes all of the country's large solid rocket motors. Before they launch a commercial payload to orbit, they take a systems approach. He has been one of the people who give the "go" for launch, and that is really the Commission's job in this instance. By virtue of the fact that the City owns 1302 Norfolk Avenue and the other Lots, he felt the City had a vested interest in understanding the broader impacts of this application. The City has a 50% interest from 13th Street to 1319 Norfolk and owns the easement that could make the road compliant. He felt that would greatly affect this application.

Mr. Holland stressed that it was incumbent upon the City, before approving this application, to take a broader systems view and that by virtue of the City's ownership, it should own 50% of the snow plowing responsibility. He stated the City plows into the street from 13th Street. He stated that the snowplow trucks the owners hired became stuck four times this year.

Mr. Holland stressed that the Planning Commission should consider the broader impacts of the City-owned land, the structures on City land that are unsafe, and the power by virtue of the City's easement to make the road compliant within the RC zone and Old Town. The difference in width is one to two feet. He asked the Planning Commission to consider the bigger picture and do the right thing to make this neighborhood safe, and to make sure the street could accommodate emergency vehicles. He felt it was ridiculous to think that emergency vehicles could access these four houses.

He argued that the Planning Commission had the power to make a good decision and to get the planning right. They have a vested interest in doing so by virtue of the City's liability through the ownership of the house. At the very least, given that the City is both a landlord and an owner, the City should step up and pay for at least 50% of the snow plowing on the street.

Deb Rentfrow resides in the 84060 zip code and noted that one of the goals of the RC Zone was to promote pedestrian connections. The applicant's drawings included a 3' x 88' sidewalk in front of the three homes, but given that they would have a private staircase, this would be a sidewalk to nowhere. Ms. Rentfrow stated there would be no sidewalk that would continue in front of the existing homes that would connect it to 13th Street, where there is also a staircase. As mentioned, Mr. Brian and his neighbors were responsible for building a sidewalk from Norfolk Avenue to Woodside. She felt it would be fair for this applicant, at the very least, to carry the sidewalk all the way to the 13th Street staircase.

In response to an inquiry from Chair Suesser, Ms. Rentfrow clarified that the proposed Plat showed a private driveway and a three-foot sidewalk. She understood that the sidewalk would be on the west side of the private driveway. The applicant also showed a private staircase at the north end of the development. She suggested the applicant be responsible for connecting their sidewalk to the 13th Street staircase and run in front of the existing owners' homes to offer connectivity for these owners on 13th Street where they installed a sidewalk. Ms. Rentfrow added that allowing this development, it would force all access for the Woodside, Phase 2 project off of Woodside Avenue. There would be no opportunity to gain access to that development unless the City used its Lots as a new access point. She stated the City owns the land to the north, east, and south of Lot D, so thought should be given as to how that home would fit in with the architecture, design, and plan of the AMPD. Ms. Rentfrow agreed with having an HOA but felt the City would have to be a part of that HOA.

There were no further public comments. Chair Suesser closed the public hearing.

Commissioner Johnson referenced the public comments on the non-compliance of the road and expanding it, and felt that would have to be a City Council determination. He noted the dynamics with the Blue House and its Historic designation. He asked Commissioner Sigg if he saw any solution for fire access. Commissioner Sigg noted he brought this up at the last meeting and mentioned requiring at least a hammerhead. He noted the City did not want to take on the plowing. The fact that there was not a hammerhead would just add to the issues. He felt it would be unreasonable to assume that a hook-and-ladder fire truck would back out.

Chief Owens explained that there was not an easy way to put an area for a fire engine to turn around on that property. It would require some pretty significant excavation and large retaining walls. He explained that for a hammerhead, they would need a little more than 120 feet. He mentioned a modified hammerhead where the road goes straight down with a spur that comes off the edge that a truck could pull into and turn around, but even that would require 60 feet. He stated it would not be plausible to put in that space and still put buildings there.

In terms of the existing conditions on Norfolk Avenue, Chief Owens stated they reviewed those and noted there were a lot of places in Park City where people were able to build past existing conditions that were not ideal. Part of the charm of Park City is that it is an old place, and sometimes they have to make compromises. He stated they could get a fire engine down that road, but there would not be a lot of room for them to work around it. It would be difficult at best to

get a ladder truck down that street, but he felt that an ambulance would not be much of a problem as long as the roads were clear.

Commissioner Johnson expressed concern as to how the Fire Department would fight a fire using the access stairs. Chief Owens explained that the first thing they look at is access, which can be granted in several different ways. It could be a road that goes right to a house. In this case, they would likely bring a fire engine to the end of the existing Norfolk Avenue, and it would probably not drive into the neighborhood due to the risk of collapse. The idea behind the stairs was that the fire engines could park on Empire Avenue, carry hoses down the stairs, and access the houses.

Commissioner Johnson asked Chief Owens about the stair standards, and Chief Owens explained that they look at the stairs like a sidewalk. If the stairs were as wide as a typical sidewalk and meets the requirements for stairs in the Building and Fire Codes, then they would be okay. He stated they do not dictate the materials, but stressed that the surface would need to be non-slip.

Chair Suesser asked if the proposed private stairs were consistent with the Fire Code requirements for stairs. Chief Owens stated that he had not seen plans for the stairs. The applicant had to provide the easement and the stairs prior to delivery of combustible materials, and the Fire Department would have to approve the stairs before they were built.

In response to an inquiry from Commissioner Kenworthy, Chief Owens confirmed that the previous application in this meeting did not have these issues. Architect Van Sickle confirmed that the design of the stairs was based on the Fire Code requirements. He recalled that the cost to build would be \$72,500, and referenced an exhibit presented to the Commission.

Planner Ananth believed that the City stairs would cost \$15/linear foot. City Engineer, John Robertson advised that for the sake of comparison, the stairway the City was constructing in Rossie Hill was costing the City approximately \$220,000. Planner Ananth noted those were 4' stairs, and the City stairs near the subject development would likely be 6' stairs. Chair Suesser recalled that a section of the 9th Street stairs between Woodside Avenue and Norfolk cost approximately \$120,000.

Commissioner Hall understood that constructing six-foot-wide stairs could likely cost much more than what it would cost the applicant to build a private staircase. Applicant Steinberg preferred to put the \$72,000 into the public staircase because then it would be a permanent fix. Engineer Robertson observed that materials costs would be higher for the City stairs since they use metal. It was confirmed by City Engineer Robertson that the City stairs would be compliant with the Fire Code.

Commissioner Frontero asked if the applicant could build the City stairs six-feet wide, and the City pay for a large portion of that. Applicant Steinberg stated that was an option.

Commissioner Johnson suggested that with the motion, they include recommendations to City Council to look at Norfolk Avenue and the recommendation for a City cost contribution for a 6' stairway.

Commissioner Hall felt the applicant would prefer to contribute rather than build the City stairs.

Chair Suesser felt there were issues beyond the staircase, and mentioned Norfolk Avenue and whether it was appropriate for the applicant to improve Norfolk Avenue and possibly extend it with the width of a standard road rather than the narrow driveway that was proposed.

Commissioner Hall referenced Exhibit O and felt that was an important component of this application. She agreed that the applicant should be proportionally responsible because the agreement required it to be in good repair. The owners and the successors in interest were still responsible for snow removal and storage. She suggested a Condition of Approval that the new Lots be responsible for 4/7ths of the snow removal obligations.

Chair Suesser felt there was a bigger access issue to these Lots.

Commissioner Johnson suggested a motion on the application or a motion to continue so that they could address the remaining Agenda Items.

Applicant Steinberg questioned the reasoning behind widening the road and felt that just widening the road would not make it plowable as there would be no place for the plows to turn around if it was only widened by a few feet.

Commissioner Hall noted that repaving the road would be the responsibility of the successors in interest, which would be everyone who has access. She felt that all seven Lots would share the responsibility to keep the road maintained, including snow removal.

Commissioner Johnson mentioned re-shaping the street.

Chair Suesser requested more information on the public comments regarding the City's responsibility. City Attorney Harrington felt that was a separate issue. He recognized that the Commission has legitimate policy interests and Code criteria regarding the roadway and the access for the proposed new Subdivision. He added that the Commission could ask for more information regarding the road requirements and why the City Engineer and Fire Department were willing to accept private access.

City Attorney Harrington stressed that the liability regarding the Encroachment Agreement was not at issue whatsoever in this application. He added that a developer adjacent to a public ROW has the right to build the public ROW to public standards, and dedicate that improvement, or pursue an encroachment agreement for a private access drive. The prior developer did the latter. He noted this was a huge policy decision, and this situation was unique because there would be an extension of that private request, so the Commission would have the opportunity to revisit that analysis and whether it was the right decision. The public comments were appropriate insofar as access or public safety issues.

City Attorney Harrington stated that City liability for snow plowing was a red herring. He supported the concept of an HOA. However, in terms of the road requirements and design, and public versus private, the Commission was within its rights to ask for further information from both Engineering and Fire Departments in the context of the Subdivision criteria.

Policy decisions could be forwarded to Council, and regardless of the Commission's decision, it could still recommend that the City Council look at its policy regarding acceptance of public ROWs when the City owns property next to it. City Attorney Harrington stated that the City bought the Blue House to save it from demolition.

Chair Suesser asked if the fact that Lots 3, 4, and 5 own their part of Norfolk Avenue to the centerline created an access issue for this development. City Attorney Harrington stated that the City still owned the ROW, but there was an encroachment permit that allowed access to the first three Lots subject to their maintenance of the road. He felt that the Commission could request additional information on whether this would create an access or safety issue for this development. He stated that access may or may not require cooperation from the three property owners because if the City Engineer states that their agreement was sufficient, and the applicant's agreement was sufficient then the Commission can decide whether that meets the Code criteria. He mentioned situations in Old Town where people were building driveways from their property to the public ROW and having encroachment agreements for that extension.

Commissioner Kenworthy asked if snow plowing would work on this street without hauling. City Engineer Robertson stated there were locations for snow storage set aside that the City could use, and for a year like this, there would still be some hauling taking place. He could not say whether this would work without all seven owners working together.

Commissioner Hall asked if the Commission wanted to continue this item or make a motion with recommendations to City Council to discuss these policy issues.

Chair Suesser stated that she and Commissioners Sigg, Kenworthy, and Frontero needed more information. Chair Suesser requested more information on the Subdivision issue and LMC Section 15-7.3-4 mentioned by City Attorney Harrington. She would also like something from the applicant regarding the potential HOA for the seven owners and how they would coordinate maintenance and snow removal of Norfolk Avenue and the driveway.

Chair Suesser would also like more information on the specific amount the applicant might want to contribute towards a stairway built to City standards and Fire standards. She would also like more information regarding access for the public if a public stairway is built in conjunction with the City. She would like to know more information about dedicating Norfolk Avenue to the City, and whether the City would accept that dedication. Planner Ananth reminded the Commission that Norfolk Avenue was a City road. Chair Suesser would like to know if the City would be willing to maintain Norfolk Avenue.

Commissioner Hall referenced Condition of Approval 9 as it related to Chair Suesser's questions regarding access. Chair Suesser stated she wanted clarification on how LMC Section 15-7.3-4 would apply to this application. She felt there would have to be some agreement regarding maintaining the road.

Chair Suesser requested the applicant consider making the stairway public access regardless of whether or not it is part of a City project. She felt it would be part of the public benefit and should not in any circumstance be considered private.

Commissioner Van Dine noted in that situation, the applicant would be building a staircase on their private property, and be subject to liability for the public access. Chair Suesser felt they could dedicate the public access to the City.

Commissioner Kenworthy asked how they would get access if the original properties were not involved, and noted they could not Condition the other owners. He noted there was a group of private parties that controlled access to the development.

Commissioner Hall stated the new development could just plow the entire street to access their homes. Commissioner Kenworthy was not sure they could Condition this project in that way.

MOTION: Commissioner Johnson moved to CONTINUE 1325 Empire Avenue and Parcel SA-200 to a date uncertain. Commissioner Hall seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

Commissioner Van Dine left the meeting.

There was discussion about proceeding with the remainder of the Agenda. It was noted by Director Milliken that there would be time on June 14th for the Work Session item, and potentially time on the May 24th meeting.

Commissioner Hall suggested moving forward with Agenda Item 6.D. and continuing the Work Session as it would likely be a long dialogue.

D. Land Management Code Amendments – Compliance with Changes to Utah Code – The Planning Commission Will Review Amendments to the Land Management Code to Align with the Utah Legislature's Enactment of S.B. 174 Regarding Internal Accessory Dwelling Units and H.B.408 Food Truck definitions.

City Planner, Jack Niedermeyer reported that the purpose of this item was to amend the LMC to align with the Utah Legislature's enactment of Senate Bill ("S.B.") 174 regarding internal ADUs, and House Bill ("H.B.") 408 Food Truck Definitions. He reported that in 2021, the Utah Legislature enacted H.B. 82, Single-Family Housing Modifications, which pre-empted municipal regulation of Internal ADUs ("IADUs"). Utah Code defines an IADU as an Accessory Dwelling Unit created within a primary dwelling (a detached Single-Family Dwelling that is owner-occupied) within the footprint of the primary dwelling and for the purpose of offering a long-term rental of 30 consecutive days or longer.

Planner Niedermeyer stated that on March 2, 2023, the Utah Legislature passed S.B. 174 – Local Land Use Development Revisions – that modified IADU regulations to include an IADU constructed in a garage connected to the primary dwelling by a common wall. Staff anticipated that the state would continue to amend the IADU definition and as a result recommended amending LMC Section 15-15-1 – Definition for Internal Accessory Dwelling Unit – by referencing the State Code section that defines IADUs.

Planner Niedermeyer reported that in 2017, the Utah Legislature enacted S.B. 250 – Food Truck Licensing and Regulation – that required municipalities to grant reciprocal business licenses and permits for Food Trucks, and allowed for municipal regulation of Food Trucks through land use regulations. He reported that on October 23, 2018, the City Council adopted Ordinance No. 2018-55, which established Food Truck Land Use Regulations allowing Food Truck locations through an Administration Letter on approved locations.

In 2022, the Utah Legislature enacted H.B. 146 – Local Licensing Amendments – that modified Food Truck Business Licenses and expanded the definition of Food Trucks to include foot carts

and ice cream trucks. On May 16, 2022, the City Council adopted an Ordinance that updated the LMC to comply with the changes to State Code.

Planner Niedermeyer reported that in the most recent Legislative Session, the Utah Legislature changed the definition of Food Truck through H.B. 408 – Mobile Business Licensing Amendments – and extended reciprocal licensing requirements beyond Food Trucks to mobile barbers, beauty and cosmetics, cycling, cell phones, computer, footwear, media archive and transfer, pet grooming, sewing and tailoring, small engine and tool businesses. It also updated the Food Truck definition to not include an enclosed mobile business and to exclude food carts and ice cream trucks. Staff anticipated the State would continuously change these definitions and recommended amending LMC Section 15-15-1 to reference Utah State Code 11-56-102, as amended.

Planner Niedermeyer reported that Staff recommended the Planning Commission review the proposed LMC Amendments, conduct a public hearing, and consider forwarding a positive recommendation for City Council's consideration on June 15, 2023.

Commissioner Hall stated that after the public hearing, she was ready to make a positive recommendation.

Chair Suesser opened the public hearing. There were no public comments. Chair Suesser closed the public hearing.

Chair Suesser asked about the inclusion of cycling in Food Trucks and the exclusion of food carts. She noted that food carts were often powered by bicycles, and wondered if those were included or excluded from the definition.

Assistant Planning Director, Rebecca Ward stated they could look into that, but stated that this was more relevant to the Business Licensing process. Food Trucks that require land use approval for a location would fall under the LMC. She added that for the mobile businesses, the Legislature was trying to expand it to someone who drives to a home and offers his or her services.

MOTION: Commissioner Hall moved to forward a POSITIVE recommendation for City Council's consideration on June 15, 2023, for S.B. 174 and H.B. 408. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

7. WORK SESSION

- A. Land Management Code Amendments – Final Action – The Planning Commission Will Conduct a Work Session on Final Action Land Use Authorities for Various Land Use Applications to Discuss Opportunities to Shift Final Action from the City Council to the Planning Commission and from the Planning Commission to Planning Staff.**

MOTION: Commissioner Hall moved to CONTINUE Land Management Code Amendments – Final Action - to June 14, 2023. Commissioner Frontero seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

8. ADJOURN

MOTION: Commissioner Johnson moved to adjourn.

The meeting adjourned at approximately 9:45 p.m.

Approved 06.14.2023